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Message Text

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INFO OCT-01 ACDE-00 ISO-00 CIAE-00 DODE-00 NSAE-00 NSCE-00

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INFO AMEMBASSY BONN
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AMEMBASSY THE HAGUE
AMEMBASSY OTTAWA
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO
USMISSION USUN NEW YORK
USMISSION NATO
ERDA HQ WASHDC
ERDA GERMANTOWN
NOAA ROCKVILLE MD
AMEMBASSY BELGRADE
AMEMBASSY BUCHAREST
AMEMBASSY NEW DELHI
AMEMBASSY ISLAMABAD
AMEMBASSY BUENOS AIRES
AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 6623

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TAGS: PARM, CCD

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SUBJECT: CCD - ENMOD NEGOTIATIONS: ARTICLE I

1. THIS MESSAGE REPORTS ON DEL'S RECENT CONSULTATIONS WITH DELEGATIONS MOST ACTIVELY INVOLVED IN ARTICLE I QUESTION AND REQUESTS AUTHORIZATION TO ACCEPT FORMULATION SUGGESTED BY ARGENTINA (PARA 19 BELOW) AS REPLACEMENT FOR "WIDESPREAD, LONG-LASTING, OR SEVERE" CRITERIA.

2. USDEL APPROACHED YUGOSLAV, DUTCH, CANADIAN, MEXICAN, ROMANIAN, PAKISTANI, INDIAN, SWEDISH, AND ARGENTINE DELOFFS AUGUST 16-18 TO EXPLORE POSSIBILITIES OF ACHIEVING BROAD AGREEMENT ON ENMOD CONVENTION BEFORE CONCLUSION OF CCD SUMMER SESSION. WHILE SOME DELGATIONS (NETHERLANDS, INDA, SWEDEN) CLEARLY WERE ABLE, DESPITE RESERVATIONS, TO GO ALONG WITH SCOPE OF TREATY AS DEFINED BY "WIDESPREAD, LONG-LASTING, OR SEVERE" CRITERIA AND BY ACCOMPANYING INTERPRETATIONS, OTHERS (PARTICULARLY YUGOSLAVIA, MEXICO, AND ARGENTINA) INDICATED FLATLY THAT PRESENT ARTICLE I WOULD BE UNACCEPTABLE TO THEM.

3. DELOFFS STRESSED THAT USG STRONGLY SUPPORTS EXISTING FORMULATION AND THAT USDEL HAS NOT BEEN AUTHORIZED TO ACCEPT ANY CHANGES. HOWEVER, TO THOSE DELEGATIONS INDICATING OPPOSITION ON ARTICLE I, DELOFFS STATED THEIR WILLINGNESS TO DISCUSS, ON A STRICTLY PERSONAL AND EXPLORATORY BASIS, POSSIBLE REFORMULATIONS THAT WOULD PRESERVE THE THRESHOLD WHILE ENABLING CRITICS TO JOIN IN SUPPORT OF ENTIRE TREATY TEXT. DELOFFS SAID THAT THEY WERE NOT PREPARED TO ENTERTAIN SUGGESTIONS FOR ABANDONING THRESHOLD CONCEPT OR FOR SETTING THRESHOLD AT LOWER LEVEL (E.G. BY MODIFYING COSPONSORS' INTERPRETATIONS OF "WIDESPREAD, LONG-LASTING, OR SEVERE" CRITERIA). HIGHLIGHTS OF DISCUSSIONS WITH ABOVE-MENTIONED DELS FOLLOW.

4. YUGOSLAV DELOFF (MIHAJLOVIC) REITERATED HIS GOVERNMENT'S SUPPORT FOR COMPREHENSIVE BAN, BUT SAID HE PERSONALLY BELIEVES BELGRADE WOULD SUPPORT PARTIAL MEASURE IF THE TERMS "WIDESPREAD, LONG-LASTING, OR SEVERE" WERE REMOVED AND IF TREATY CONTAINED COMMITMENT
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TO CONTINUE NEGOTIATIONS TOWARD A COMPREHENSIVE PROHBIITION. HE ALSO SAID TITLE (CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES) SHOULD BE CHANGED (PERHAPS TO "CONVENTION ON THE LIMITATION . . .") IN ORDER TO REFLECT PARTIAL SCOPE OF CONVENTION. IN ADDITION, HE ARGUED THAT PROHIBITION SHOULD APPLY TO ENMOD USE AGAINST ALL STATES, NOT JUST STATES PARTY.

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5. MIHAJLOVIC EXPRESSED NO INTEREST IN DELOFF'S TWO SUGGESTIONS FOR REPLACING " WIDESPREAD, LONG-LASTING, OR SEVERE" WITH THREE SYNONYMOUS WORDS OR PHRASES ("EXTEN-SIVE, PRESISTING, OR VERY SERIOUS EFFECTS," "EFFECTS OF A SIGNIFICANT EXTENT, LONG DURATION, OR VERY SERIOUS NATURE"), INDICATING THAT THESE FORMULATIONS WERE "JUST AS BAD" AS THE EXISTING ONE. HOWVEVER, HE CONSIDERED A THIRD ALTERNATIVE ("HAVING EFFECTS, AS DESCRIBED IN ANNEX I, PRESENTING SERIOUS DANGERS TO ANOTHER STATE PARTY") TO BE A "DEFINITE IMPROVEMENT."

6. DELOFF ARGUED THAT IT WOULD NOT BE APPROPRIATE TO INCLUDE COMMITMENT TO CONTINUE NEGOTIATIONS TOWARD A COMPREHENSIVE BAN, SINCE WE BELIEVE PRESENT SCOPE OF PROHIBITION WILL BE ADEQUATE TO DEAL EFFECTIVELY WITH ANY SERIOUS DANGERS POSED BY DEVELOPMENT OF ENMOD TECHNIQUES. IF TREATY PARTIES, ON BASIS OF EXPERIENCE AFTER TREATY ENTERED INTO FORCE, CONSIDERED SCOPE INADEQUATE, THEY WOULD HAVE RESOURSE IN REVIEW AND AMENDMENT PROCEDURES. PER STATE 183436, DELOFF SAID WE WOULD BE WILLING TO CONSIDER LANGUAGE IN REVIEW CONFERENCE PROVISION INDICATING THAT A RESPONSIBILITY OF THE CONFERENCE WOULD BE TO EXAMINE EFFECTIVNESS OF TREATY IN ELIMINATING DANGERS OF HOSTILE USE OF ENMOD TECHNIQUES.

7. ON ISSUE OF "STATES PARTY," DELOFF HELD THAT NEITHER WE NOR MANY OTHER DELS WERE PREPARED TO EXTEND COMMIT-MENT TO ALL STATES AND THEREBY WEAKEN INCENTIVES FOR ADHERENCE.

8. WHEN PRESSED REGARDING CHANGES THAT WOULD PERMIT CONFIDENTIAL

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YUGOSLAVIA TO GO ALONG WITH CONVENTION, MIHAJLOVIC SAID THAT HE COULD NOT PREDICT BELGRADE'S RESPONSE, BUT THAT HE WOULD RECOMMEND ACCEPTANCE IF (A) "WIDESPREAD, LONG-LASTING, OR SEVERE" WERE REPLACED BY FORMULATION ALONG LINES OF THRID ALTERNATIVE IN PARA 5; (B) REVIEW CON-FERENCE PROVISION CONTAINED REFERENCE TO RESPONSIBILITY TO EXAMINE TREATY'S EFFECTIVENESS IN ELIMINATING DANGERS, ETC.; AND (C) TITLE WERE CHANGED. (HOWEVER, IN CONVER-SATION SUBJSEQUENT TO ABOVE, MIHAJLOVIC REPEATED ADVOCACY OF CHANGING "STATE PARTY" TO "STATE." HE MADE SAME POINT IN AUUST 18 ENMOD WORKING GROUP MEETING. IT THUS IS UNCERTAIN HOW INSISTENTLY YUGOSLAVAS MIGHT SEEK TO DELETE "PARTY".)

9. DUTCH DELOFF (MEERBURG) INDICATED THAT, WHILE

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NETHERLANDS SUPPORTED COMPREHENSIVE BAN
AND SYMPATHIZED WITH ARGUMENTS RE LEGAL COMPLICATIONS OF
USING "WIDESPREAD, LONG-LASTING OR SEVERE" BOTH IN ENMOD
AND LAWS OF WAR CONTEXTS, DUTCH GOVERNMENT WOULD PROBABLY
BE WILLING TO GO ALONG WITH ARTICLE I VIRTUALLY UNCHANGED
IF MOST OTHERW WERE PREPARED TO DO SO.

10. CANADIAN DELOFF (SIMARD) SAID THAT CANADA WAS NOT
CONCERNED BY "WIDESPREAD, LONG-LASTING, OR SEVERE" PER
SE, BUT BY LEGAL IMPLICATIONS OF INTERPRETING INDENTICAL
TERMS IN DIFFERENT WASY IN SEPARATE LEGAL REGIMES.
ACCORDING TO SIMARD, OTTAWA THOUGHT BEST COURSE WAS TO
DROP ANNEX. HOWEVER, SINCE MOST DELS INSISTED ON RETEN-
TION OF INTERPRETATIONS, HE FAVORED USE OF ALTERNATIVE
LANGUAGE FOR EXPRESSING THRESHOLD CONCEPT.

11. MEXICAN DELOFFS (MARIN, CAMPOS) STRESSED IMPORTANCE
OF COMPREHENSIVE BAN AND ARTICLE III COMMITMENT TO
CONTRIBUTE TO INTERNATIONAL COOPERATION IN THE "UTILIZA-
TION, PRESERVATION, AND IMPROVEMENT OF THE ENVIRONMENT."
WHILE THEY DID NOT EXCLUDE THE POSSIBILITY OF ACCEPTING
A THRESHOLD BAN, THE MEXICANS HAVE BEEN UNWILLING TO

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AMEMBASSY ROME
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO
USMISSION USUN NY
USMISSION NATO
ERDA HQ WASHDC
ERDA GERMANTOWN MARYLAND
NOAA ROCKVILLE MARYLAND
AMEMBASSY BELGRADE
AMEMBASSY BUCHAREST
AMEMBASSY NEW DELHI
AMEMBASSY ISLAMABAD
AMEMBASSY BUENOS AIRES
AMEMBASSY MEXICO

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DISCUSS COMPROMISE FORMULATIONS THAT MIGHT ENABLE
THEM TO DO SO. THEY SAID THEY DO NOT EXPECT TO HAVE ANY
FLEXIBILITY IN THEIR INSTRUCTIONS UNTIL ARRIVAL OF
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FOREIGN MINISTER GARCIA ROBLES (PROBABLY TUESDAY AUG 24,)
WHO PLANS TO TAKE PART IN ENMOD NEGOTIATIONS DURING HIS
STAY IN GENEVA.

12. ROMANIAN REP (ENE), WHILE FAVORING A COMPREHENSIVE
BAN, HAS GIVEN INDICATIONS THAT HE COULD ACCEPT THE
PRESENT THRESHOLD FORMULA, EVEN RETAINING "WIDESPREAD,
LONG-LASTING, OR SEVERE". (HE SUGGESTED THAT "WSLLS"
COULD BE DELETED FROM PREAMBLE,WHILE RETAINING TERMS
IN OPERATIVE ARTICLE I.) HOWEVER, HE SEEMS TO PREFER
DROPPING THE INTERPRETATIONS OF THE THREE CRITERIA,
SINCE IN HIS VIEW THEY CONVEY IMPRESSION THAT HOSTILE
USES OF ENMOD WITH EFFECTS BELOW THRESHOLD ARE CONDONED.

13. PAKISTAN ALT REP (SALEEM) SAID THAT WHILE PAKISTAN'S
OFFICIAL POSITION REMAINED IN FAVOR OF COMPREHENSIVE BAN,
HE WOULD PERSONALLY RECOMMEND TO ISLAMABAD AGREEMENT ON
THRESHOLD APPROACH PROVIDED AUTHORITIES IN CAPITAL
COULD ACCEPT INTERPRETATIONS PROVIDED BY U.S., INCLUDING
PROPORTIONALITY ELEMENT.

14. INDIAN REP (MISHRA) SAID HE COULD GO ALONG WITH CHANGE
IN EXPRESSION OF BAN PROVIDED THRESHOLD WERE
RETAINED.

15. SWEDISH DELOFF INDICATED TH US DELOFF AUG 18

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THAT SWEDEN WAS GRUDGINGLY READY TO GO ALONG WITH ENMOD
THRESHOLD. HOWEVER, ACCORDING TO SWEDISH DELOFF, SWEDEN
WOULD INSIST ON SATISFACTORY INTERPRETATIONS IN ANNEX.
(HE REMARKED THAT US INDICATION OF WILLINGNESS TO ADD
ELEMENT OF PROPORTIONALITY TO INTERPRETATION OF "SEVERE"
HAD BEEN VERY HELPFUL).

16. BERASATEGUI (ANGENTINA) SAID THAT, DESPITE PREFERENCE
FOR COMPREHENSIVE AGREEMENT, ARGENTINA COULD ACCEPT A
THRESHOLD BAN. HOWEVER, HE HAD SEVERAL DIFFICULTIES
WITH PRESENT TEXT: (A) INTERPRETATIONS OF THREE THRESHOLD
CRITERIA SHOULD INCLUDE NUMERICAL VALUES (HE CITED
SPECIFICALLY 300 SQUARE KILOMETERS AND 3 MONTHS);
(B) COMMITMENT SHOULD BE INCLUDED TO CONTINUE NEGOTIATIONS
TOWARD COMPREHENSIVE TREATY; (C) TITLE SHOULD BE CHANGED;
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AND (D) "WSLLS" SHOULD BE REPLACED BY ALTERNATIVE MEANS
OF EXPRESSING THRESHOLD.

17. CITING ISSUE OF LEGAL COMPLICATIONS, BERASATEGUI
INDICATED THAT LAST OF THESE PROBLEMS (I.E., DELETING
"WSLLS") WAS HIS PRIMARY CONCERN. IF TERMS WERE NOT
REMOVED, CONVENTION WOULD BE "UNACCEPTABLE."
IN THAT CASE, ARGENTINA WOULD NOT NECESSARILY BLOCK
CONSENSUS TO TRANSMIT TEXT TO UNGA. BUT, HE SAID,
ARGENTINA WOULD CERTAINLY OPPOSE CONVENTION ON FLOOR OF
FIRST COMMITTEE.

18. DELOFF ARGUED AGAINST INCLUDING NUMERICAL VALUES
IN THRESHOLD INTERPRETATIONS, STATING THAT SUCH VALUES
WOULD NECESSARILY BE ARBITRARY AND WOULD INTRODUCE A
FALSE SENSE OF PRECISION WHEN, IN PRACTICE, ASSESSMENTS
OF EFFECTS WOULD RARELY BE SO PRECISE. BEEASATEGUI LATER
INDICATED THAT HE WOULD NOT PRESS FOR CHANGING PRESENT
INTERPRETATIONS.

19. AS A REPLACEMENT FOR "WSLLS", BERASATEGUI SUGGESTED
"...TECHNIQUES HAVING EFFECTS AS DESCRIBED IN ANNEX I".
DELOFF SAID THIS WAS TOO "NEUTRAL". IT WAS IMPORTANT
THAT NAY REFORMULATION PROVIDE IN ARTICLE I SOME RATIONALE
FOR THE PROHIBITION (E.G. TO AVERT "WSLLS EFFECTS). DELOFF
SUGGESTED THE TWO FORMULATIONS CONTAINING THREE SYNONYMOUS
WORDS OR PHRASES (PARA 5 ABOVE), BUT BERASATEGUI SAID HE
KNEW THAT BUENOS AIRES WOULD NOT FIND THOSE ACCEPTABLE.
INSTEAD, HE RECOMMENDED "...TECHNIQUES CAUSING EFFECTS
HAVING SUCH HARMFUL CHARACTERISTICS AS THOSE DESCRIBED
IN ANNEX I...". HIS IMPRESSION WAS THAT IF US COULD
ACCEPT THIS PROPOSAL AND COULD MAKE REFERENCE IN REVIEW
CONFERENCE PROVISION TO RESPONSIBILITY OF EXAMINING

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EFFECTIVENESS OF TREATY, ARGENTINA WOULD SUPPORT TEXT.

20. ASKED WHAT ARGENTINA WOULD DO IF MEXICO COULD NOT ACCEPT CONVENTION AND OPPOSED IT AT THE UNGA, BERASATEGUI SAID THAT ONCE ARGENTINA ACCEPTED TEXT IN THE CCD, IT WOULD SUPPORT CONVENTION IN NEW YORK, EVEN IF MEXICANS DID NOT. HE ADDED THAT IF US AND ARGENTINA COULD COME TO TERMS, HE WOULD TRY TO PERSUADE GARCIA ROBLES, WITH CONFIDENTIAL

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WHOM HE CLAIMS TO HAVE CLOSE RELATIONSHIP, TO ACCEPT THE COMPROMISE.

21. COMMENT. ALTHOUGH MEXICAN POSITION CANNOT AT THIS STAGE BE PREDICTED, DEL BELIEVES THERE IS A REASONABLE POSSIBILITY THAT ALL OTHER CCD DELEGATIONS WOULD GO ALONG WITH ENMOD CONVENTION IF "WSLLS" WERE REPLACED BY SUITABLE REFORMULATION THAT RETAINED PRESENT INTERPRETATIONS OF THRESHOLD LEVEL. IN THOSE CIRCUMSTANCES, MEXICO MIGHT FIND IT DIFFICULT TO BE LONE DISSENTER. THUS, WE BELIEVE REFORMULATION SUGGESTED ABOVE WOULD GREATLY IMPROVE PROSPECTS FOR CONCLUDING NEGOTIATIONS THIS SUMMER AND FOR WIDELY SUPPORTED TREATY AT UNGA, WHILE RETAINING NOT ONLY BASIC THRESHOLD CONCEPT, BUT ALSO PRESENT LEVEL OF THRESHOLD.

22. FOR THESE REASONS, USDEL REQUESTS AUTHORIZATION TO ACCEPT ARGENTINE PROPOSAL FOR REPLACING "WSLLS" WITH "...TECHNIQUES CAUSING EFFECTS HAVING SUCH HARMFUL CHARACTERISTICS AS THOSE DESCRIBED IN ANNEX I..." (OR SIMILAR FORMULATIONS, SUCH AS "TECHNIQUES HAVING SUCH HARMFUL EFFECTS (CONSEQUENCES) AS THOSE DESCRIBED..." OR "TECHNIQUES CAUSING SUCH HARMFUL EFFECTS AS...").

23. IF DEL RECEIVES SUCH AUTHORIZATION, WE WOULD MAKE CLEAR TO OTHERS THAT WE COULD ONLY COMMIT OURSEVLES TO IT IN THE CONTEXT OF THE CONSLUSION OF NEGOTIATIONS ON THE ENTIRE TEXT. CATTO

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